

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

IN RE: XARELTO (RIVAROXABAN) (‘310) PATENT LITIGATION	MDL No. 21-3017-RGA
BAYER PHARMA AG, BAYER AG and JANSSEN PHARMACEUTICALS, INC., Plaintiffs, v. TEVA PHARMACEUTICALS USA, INC., Defendant.	C.A. No. 23-551-RGA
BAYER PHARMA AG, BAYER AG, and JANSSEN PHARMACEUTICALS, INC., Plaintiffs, v. LUPIN LIMITED, et al., Defendants.	C.A. No. 21-314-RGA-JLH (CONSOLIDATED)

STIPULATION AND ORDER REGARDING CONSOLIDATION AND SCHEDULE

WHEREAS, Plaintiffs Bayer Pharma AG, Bayer AG, and Janssen Pharmaceuticals, Inc., (collectively, “Plaintiffs”) filed C.A. No. 23-551 against Defendant Teva Pharmaceuticals USA, Inc. (“Teva”) in connection with Teva’s submission of an Abbreviated New Drug Application (“ANDA”) to the U.S. Food and Drug Administration seeking approval for generic versions of Plaintiffs’ 2.5 mg Xarelto[®] product prior to the expiration of U.S. Patent No. 10,828,310 (“the ‘310 patent”); and

WHEREAS, Plaintiffs are engaged in related litigation against Teva and a number of defendants in connection with the '310 patent, which are coordinated and consolidated under MDL No. 21-3017-RGA and C.A. No. 21-314-RGA-JLH (consolidated); and

WHEREAS, the parties wish to streamline discovery and conserve their and the Court's resources;

NOW, THEREFORE, Plaintiffs and Teva hereby STIPULATE, and request that the Court ORDER, as follows:

1. C.A. No. 23-551-RGA shall be consolidated with C.A. No. 21-314-RGA-JLH (consolidated) for all purposes, including for trial. All papers shall be filed in C.A. No. 21-314-RGA-JLH (consolidated).

2. The Scheduling Order in C.A. No. 21-314-RGA-JLH (consolidated) (D.I. 21), as modified by stipulation and Court Order, shall govern C.A. No. 23-551-RGA.

3. Teva shall adopt for purposes of C.A. No. 23-551-RGA all discovery requests served by Teva or jointly by the defendants in C.A. No. 21-314-RGA-JLH;

4. All documents produced by Plaintiffs or by Teva in the consolidated case shall be deemed produced in C.A. No. 23-551-RGA;

5. Plaintiffs will deem served upon Teva all of Plaintiffs' discovery responses and all parties' court filings in C.A. No. 21-314-RGA-JLH, to the extent such materials are already available to Teva in the consolidated case;

6. Teva shall adopt in C.A. No. 23-551-RGA the invalidity contentions made by the Teva in C.A. No. 21-314-RGA-JLH (consolidated) under Paragraph 4(d) of the Default Standard, and the identification of references and combinations of references made by Teva in C.A. No. 21-

314-RGA-JLH (consolidated) under paragraph 4(g)(iii) of the Scheduling Order and Paragraph 4(d) of the Default Standard;

7. The Stipulation and Order regarding claim construction in C.A. No. 21-314-RGA-JLH (consolidated) (D.I. 72, 73) shall apply.

8. The Stipulated Protective Order in C.A. No. 21-314-RGA-JLH (consolidated) (D.I. 36, 37) shall apply.

9. The Stipulation and Order regarding infringement in C.A. No. 21-314-RGA-JLH (consolidated) (D.I. 118) shall apply.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

SHAW KELLER LLP

/s/ Derek J. Fahnestock

/s/ Karen E. Keller

Jack B. Blumenfeld (#1014)
Rodger D. Smith (#3778)
Derek J. Fahnestock (#4705)
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899
(302) 658-9200
jblumenfeld@morrisnichols.com
rsmith@morrisnichols.com
dfahnestock@morrisnichols.com

John W. Shaw (No. 3362)
Karen E. Keller (No. 4489)
Nathan R. Hoeschen (No. 6232)
I.M. Pei Building
1105 North Market Street, 12th Floor
Wilmington, DE 19801
(302) 298-0700
jshaw@shawkeller.com
kkeller@shawkeller.com
nhoeschen@shawkeller.com

*Attorneys for Plaintiffs Bayer Pharma AG,
Bayer AG and Janssen Pharmaceuticals, Inc.*

*Attorneys for Defendant Teva
Pharmaceuticals USA, Inc.*

SO ORDERED this 15 day of September, 2023.

/s/ Richard G. Andrews

UNITED STATES DISTRICT JUDGE